

**STATE LANDS COMMISSION
REGULATIONS GOVERNING MARINE TERMINAL PHYSICAL
SECURITY
INITIAL STATEMENT OF REASONS**

The following is the initial statement of reasons for each of the regulations. Prior to the explanation for each provision, the text of the regulation is set forth indented and underlined.

NECESSITY FOR ALL OF THE FOLLOWING REGULATIONS

Public Resources Code (PRC) §8755 requires the State Lands Commission (the "Commission") to adopt regulations for the operation of all marine terminals within the State of California. P.R.C. §8756 also requires the Commission to review and modify its regulations periodically so as to provide the best achievable protection of the public health and safety and of the environment.

In order to establish the program of regulatory development and commence its inspection and monitoring activities, the Commission created the Marine Facilities Division (the Division) in November 1990. Since that time, the Division has established comprehensive regulations that govern the safety of operations at marine oil terminals, maintenance and testing of marine terminal oil pipelines, structural requirements for installation of vapor control systems and training and certification of marine terminal personnel. In light of September 11, 2001 and in continuing its mandated function, the Division's staff is now focusing their attention towards marine terminal physical security.

These proposed regulations are the first of their kind in California and address marine terminal physical security at all marine terminals within the state. The purpose of these regulations is to ensure that each marine terminal in California has in place a physical security program which will deter threats or acts of terrorism against the terminal, persons at the terminal, vessels alongside the terminal and protect the environment.

PURPOSE FOR ALL OF THE FOLLOWING REGULATIONS

These proposed regulations are intended to permanently replace and enhance existing emergency regulations in 2 CCR §2351. The emergency regulations established an initial minimum level of physical security at marine oil terminals and are effective until October 26, 2002.

The focus of this regulatory action is to provide comprehensive regulations which will establish, generate and encompass various aspects of physical security that is a necessity in light of September 11, 2001. With the tragic events that occurred on that day came a new sense of realization and priority. In addition, the risks associated with post September 11th have brought new awareness in California, indeed the nation.

Therefore, to ensure that all marine terminals are in a state of organized readiness, the Commission believes it must act now for timely protection and security at our terminals. Each marine terminal operator must implement a physical security program that provides for the safety and security of persons, property, and of the environment as well as vessels alongside of the terminal. An effective security program would prevent or deter unauthorized weapons, incendiary devices or explosives as well as unauthorized access to the terminal or vessels moored at the terminal. Improving the security standards at each terminal would also increase vigilance and awareness, which is an integral component of security. Additionally, important assets, infrastructures and appurtenances that are critical to the marine terminal as well as those assets or structures that, if damaged, could cause harm to people, the terminal's economy or to the environment can greatly be reduced.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

In the preparation of these proposed regulations, the Division formed a Technical Advisory Group (TAG) in June 2002 to provide input toward the implementation of the provisions of P.R.C. §8756. The TAG represented a wide cross section of the marine transportation, terminalling and oil industries together with representatives from state and local harbor organizations, port authorities and maritime security consultants. The members of the TAG extensively reviewed draft text of the regulations at two meetings and proposed necessary changes to text and requirements of the regulations. In addition, supporting documents from the United Nations International Maritime Organization (IMO) and the United States Coast Guard (USCG) were referenced in finalizing the proposed regulations. Specifically, these documents are IMOs "Port Facility Security" and the USCGs "Facility Security Plan" dated April 24, 2002.

SMALL BUSINESS IMPACTS

The Commission finds that the adoption of these regulations will not have a significant adverse economic impact on small businesses. None of the business that will be governed by these proposed regulations can be considered to be a "small business" as defined in Government Code Section 11342.610.

Article 5.1. Marine Terminal Physical Security

§2430. The Marine Facilities Division.

SPECIFIC PURPOSE OF THE REGULATION

This regulation establishes the Division within the Commission and specifies its responsibilities under the Act. It also establishes the location of its primary office which facilitates communication between the Division and the regulated community. This provision ensures that all regulated parties are aware of where communications should be directed.

NECESSITY

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (the Act) assigned a number of responsibilities and requirements to the Commission. Public Resources Code (PRC) §8755 and §8756 requires the State Lands Commission (the "Commission") to adopt regulations that ensure the safe operation of all marine terminals within the State of California. The Act also requires the Commission to review and modify its regulations periodically so as to provide the best achievable protection of the public health and safety and of the environment.

Therefore, in light of recent tragic terrorist events of September 11, 2001 and the continuing threat of future terrorist activity, the Commission is now focused on requirements for a marine terminal physical security program that deters such threats.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

- (a) There is in the Staff of the California State Lands Commission the Marine Facilities Division, which has the primary responsibility for carrying out the provisions of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 within the Commission's jurisdiction.
- (b) The primary office of the Division is at 200 Oceangate, Suite 900, Long Beach, California 90802-4335, telephone (562) 499-6312.

This requirement is duplicated in 2 CCR Section 2300. This duplication in this Article 5.1 enhances ease of reference by preventing unnecessary cross reference with Article 5.

§2431. Purpose and Applicability.

SPECIFIC PURPOSE OF THE REGULATION

This regulation addresses the overall intent of all of the proposed regulations in Article 5.1.

NECESSITY

The State of California has 77 marine oil terminals falling under the jurisdiction of the Commission. Each of these facilities stores and is capable of transferring oil and liquid hydrocarbon products to and from tank vessels and barges. On average, 1.8 million

barrels of oil or product are transferred at California's marine oil terminals every day. These facilities are located along the coast of California from Eureka in the North to San Diego near the Mexican border. The majority of these terminals are located in the ports and harbors of the state, while a few are located in the Carquinez Strait in the San Francisco Bay area, in the Santa Barbara Channel and in Humboldt Bay.

The major hazards at a marine oil terminal include fire and explosion and the potential for large quantities of oil to be spilled into the waters of the State. These facilities and their associated refineries are at considerable risk from the potential of terrorist threats. Presently, it is fairly easy for unauthorized intruders to infiltrate surreptitiously into the confines of a terminal and cause inestimable damage either through fire and explosion or through the release of oil into the marine environment. Fires and explosions can be generated by the use of incendiaries, explosives or firearms. Unauthorized releases of large quantities of oil into the marine environment can easily be accomplished by opening a few strategic valves and allowing an uncontrolled quantity of oil to flow into the marine environment. All marine oil terminals have pipeline manifolds that terminate at the dock face. Manifolds are connected by pipelines to oil storage tanks. In some cases, the tank storage facilities (tank farms) are located several miles away from the dock. The flow of oil between the dock and the storage tanks is controlled and regulated by strategically situated valves. Any of these components is vulnerable to intentional acts of great destructive consequence.

Additional risks of fire, explosion and release of huge quantities of oil may be realized by encroachment from the waterfront side of the dock. A recent example of such terrorist act is the bombing of "USS COLE" from a small boat in the port of Aden, Yemen, on 12 October 2000. The attack on the "USS COLE" killed 17 sailors, wounded more than twice that number and occasioned considerable damage to the ship's structure. A similar attack on a tanker or barge carrying volatile hydrocarbon liquids can cause an immensely greater degree of devastation than the attack on the "USS COLE."

The consequences of an act of sabotage on a tanker or barge and the potential for causing immeasurable damage to public health and safety and the environment can best be illustrated by the fire and explosion aboard the tanker SS "SANSINENA" in the Port of Los Angeles, California, on December 17, 1976. The "SANSINENA," a fairly small tanker by today's standards, had discharged most of its cargo of crude oil. Its empty tanks, though, were full of explosive vapors when a spark caused a tremendous explosion that broke the ship in two, virtually destroyed the marine oil terminal and did significant damage to the port. An explosion on a modern tanker more than twice the size of the "SANSINENA" with tanks full of volatile oil or hydrocarbon products could have incalculably greater consequences.

Apart from the physical and environmental damage that can be caused by the events described above, there is also the potential for an enormous adverse economic impact. Any one of the incidents described above could in turn cause the closure of a port and the shutdown all its facilities. The ports of California are the western gateway to the United States and they cater to a high volume of commerce and trade. This activity

generates large revenues to the coastal cities and the state and also provides gainful employment to a large sector of the population. A terrorist act resulting in the closure of Californian ports or port facilities can have far reaching national and international adverse economic impacts.

Recent events are compelling evidence that these threats require all marine terminals to be in a state of preparedness to deter unlawful activity. While some terminal operators have taken action to enhance security, the proposed regulations would ensure that all such operators implement security programs immediately and effectively.

Given the above circumstances and considerations, Commission staff believes that urgent and immediate action is necessary to ensure that all marine oil terminals in California are in a state of organized readiness to deter terrorist activity.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

- (a) The purpose of the regulations in Title 2, Division 3, Chapter 1, Article 5.1 of the California Code of Regulations is to provide a physical security program which ensures the best achievable protection of the public health and safety and of the environment at marine terminals.

This provision clearly states the purpose of the regulations.

- (b) The provisions of this article shall apply to all marine terminals in the State of California.

Subsection (b), specifies that Article 5.1 applies to all marine terminals in California. This provision identifies the branch of industry which will be governed by the regulations.

§2432. Definitions.

SPECIFIC PURPOSE OF THE REGULATION

These definitions are provided to ensure clarity and avoid ambiguity.

NECESSITY

Without these definitions, compliance with and enforcement of these regulations are likely to be fraught with confusion and misunderstanding. Where the definition duplicates the definition already in the statute, it is set forth here to avoid referencing the

statute to understand the use of the term in these regulations. Where the definition is given for a term not defined in the statute, it is provided for the purpose of clarification or to enhance understanding.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

Unless the context otherwise requires, the following definitions shall govern the construction of this article:

(a) "Division" means the Marine Facilities Division of the California State Lands Commission.

This definition is provided to avoid unnecessary repetition. These regulations will be implemented by the Commission through its Marine Facilities Division. As such it is necessary to reference that division repeatedly throughout the regulations. This provision obviates the need to repeat the division's full name.

(b) "Division Chief" means the Chief of the Marine Facilities Division or any employee of the Division authorized by the Chief to act on his behalf.

This definition is provided to avoid unnecessary repetition and for the sake of brevity. There may be times when the Division Chief is unable to administer the provisions of these regulations personally. This definition makes clear that others may be delegated responsibilities and authority to implement these regulations. This definition is a duplication of the same provision in 2 CCR §2315(h). It is repeated here to enhance clarity and for ease of reference.

(c) "Marine terminal" means a facility other than a vessel, located on or adjacent to marine waters in California, used for transferring oil to or from tank vessels or barges. The term references all parts of the facility including, but not limited to, structures, equipment and appurtenances thereto used or capable of being used to transfer oil to or from tank vessels or barges. For the purpose of these regulations, a marine oil terminal includes all piping not integrally connected to a tank facility. A tank facility means any one or combination of above ground storage tanks, including any piping which is integral to the tank, which contains crude oil or its fractions and which is used by a single business entity at a single location or site. A pipe is integrally related to an above ground storage tank if the pipe is connected to the tank and meets any of the following:

- (1) The pipe is within the dike or containment area;
- (2) The pipe is connected to the first flange or valve after the piping exits the containment area; or
- (3) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

The Act defines "Marine Terminal" in a general manner. However there may be additional items or equipment that are used at the terminal which may be subject to these regulations. This definition further clarifies the definition in the Act to ensure that those subject to these regulations understand that all parts of the terminal are included. This definition is a duplication of 2 CCR §2315. It is repeated here to enhance clarity and for ease of reference.

- (d) "Marine Terminal Security Officer" or "MTSO" means a person employed by the terminal operator designated to be responsible for terminal security.

This definition specifies the terminal operator's responsibility in designating a marine terminal security officer within his employ. In assuming responsibility for all physical security, it is imperative that the person in charge of terminal security be knowledgeable and familiar with the terminal.

- (e) "Marine Terminal Physical Security Plan" means a written document describing the practices, procedures, responsibilities, equipment and structures that provide for the security of the terminal.

This definition specifies the requirements for a Physical Security Plan. It requires that the plan be a written document and broadly defines that document's contents.

- (f) "Physical Security Survey and Assessment" means the terminal operator's identification and evaluation of weaknesses in physical security of important assets, infrastructures, appurtenances and procedures that are critical to the marine terminal, that, if damaged, could cause harm to people or to the environment.

The term "Physical Security Survey and Assessment" is used in several sections of these regulations. It is necessary to define that term so that the regulated community may clearly understand what it entails. A physical security survey and assessment forms the basis for development of a security plan. Unless a survey and assessment which identifies a terminal's assets and weaknesses is conducted, it will not be possible to devise a security plan. This definition essentially lists those items at a marine terminal which must be surveyed and evaluated for the risk they pose. The term "Physical Security Plan" originated from IMO and USCG documents identified on Page

2 of the Initial Statement of Reasons. It is likely that all signatory governments will design security arrangements based on this term.

- (g) "Terminal Operator" means any person or entity which owns, has an ownership interest in, charters, leases, rents, operates, participates in the operation of or uses a terminal, pipeline, or facility. "Terminal Operator" does not include any entity which owns the land underlying the terminal or the terminal itself, where the entity is not involved in the operations of the terminal.

The definition of "Operator" in the Act is not sufficiently specific for the purpose of compliance with these proposed regulations. It is likely to cause confusion because it also includes operators of vessels, pipelines and facilities. These proposed regulations only address physical security at marine terminals and therefore it is necessary for the definition to be more specific in terms of those subject to these regulations.

§2433. Requirements for Marine Terminal Security Program.

SPECIFIC PURPOSE OF THE REGULATION

This provision clearly sets out the minimum requirements for a marine terminal security program that each marine terminal operator must implement.

NECESSITY

There are currently no existing regulations addressing security programs at marine oil terminals in California. Recent terrorist events of September 11, 2001, have revealed the continuing threat of future terrorist activity which has the potential for causing catastrophic damage to public health and safety and the environment. All marine oil terminal's within California must now be in a state of preparedness to deter the execution of such threats. This can be effectively accomplished with a physical security program in place at each terminal.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

Each marine terminal operator must implement a marine terminal security program that, at a minimum:

This provision requires that the terminal operator must be the entity that develops a marine terminal security program with minimum contents as specified below in subsections (a), (b), (c) and (d) of §2433.

- (a) Provides for the safety and security of persons, property and equipment on the terminal and along the dockside of vessels moored at the terminal;

This provision specifies what the security program should accomplish. Specifically, it requires the protection of persons, property and equipment, and vessels moored at the terminal.

- (b) Prevents or deters the carrying of any unauthorized weapon, incendiary, or explosive on or about any person inside the terminal, including within his or her personal articles;

Having any of these items without authorization within the terminal has the potential of causing significant damage to the terminal, loss of life, and/or catastrophic consequences to the environment. This provision specifies that the security program should include effective procedures to prevent and deter the carrying of such items on persons or personal articles within the terminal at all times.

- (c) Prevents or deters the introduction of any weapon, incendiary, or explosive in stores or carried by persons onto the terminal or onto the dockside of vessels moored at the terminal; and

Allowing introduction onto the terminal or vessels located dockside at the terminal any of these items has the potential of causing significant damage to the terminal or vessel, loss of life, and/or cause catastrophic consequences to the environment. This provision specifies that the security program should include effective procedures to prevent and deter the carrying of such items by persons onto the terminal or in stores delivered to the terminal or vessel.

- (d) Prevents or deters unauthorized access onto the terminal and onto the dockside of vessels moored at the terminal.

It is essential that unauthorized personnel are not allowed access to the terminal or dockside of vessels moored at the terminal. These individuals themselves can be potentially dangerous an effective in carrying out any threats or acts of terrorism against the terminal or vessel. This provision would ensure that there is no unauthorized access to the terminal premises.

§2434. Designation of MTSO and Alternates.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this requirement is to ensure that the terminal operator designates each marine terminal security officer and alternates. These persons, the MTSO or alternates, should be available at all times with 24-hour contact information.

NECESSITY

This designation by the terminal operator is necessary in order to have a responsible person available at all times that has intimate knowledge of the terminal and its physical security plan. Due to the diversity of the layout of each terminal within the state, the requirement to have a responsible person with thorough knowledge of the terminal's equipment, appurtenances and layout in charge of security is of the utmost importance to be an effective tool against terrorism.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

Each terminal operator shall designate an MTSO by name with 24-hour contact information, and an alternate or alternates when the MTSO is unavailable.

§2435. Responsibilities of the MTSO.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this provision is to clearly define the minimum responsibilities of the MTSO with regard to his duties.

NECESSITY

This new and important position at marine terminals will have much responsibility that accompanies it. The MTSO will be responsible for all aspects of security to protect the terminal against threats or acts of terrorism. The MTSO must develop and implement new processes and procedures and ensure that all requirements in this subsection are undertaken, completed, maintained and ongoing.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

Each MTSO must, at a minimum, ensure that all of the following are undertaken and completed:

- (a) An initial comprehensive physical security survey and assessment has been conducted, documented and maintained in a location determined by the MTSO;

This provision requires that the MTSO conduct an initial physical security survey and assessment to determine the adequacy of existing security equipment and measures in place and assess vulnerable areas of the terminal which may be likely targets for terrorist activity. The survey and assessment must be documented and maintained in a location to be determined by the MTSO to prevent unauthorized viewing of these documents. These documents may be considered sensitive and, as such, be confidential.

- (b) Ongoing security surveys are conducted at least annually and whenever a security incident or circumstances warrant changes;

This provision requires that ongoing security surveys must be conducted to ensure that adequate security measures are in place, being maintained and are effective for the terminals needs and its particular geographic location. Breaches of security incidents, either at a terminal or other terminals, are likely to reveal that new measures may be needed to provide a high standard of security. Also, new technologies being developed to address higher security standards at our ports and terminals are likely to provide enhanced security measures. The provision also stipulates the maximum period of time between the initial and each ongoing security survey.

- (c) The comprehensive physical security survey and assessment are used to formulate a security plan;

This provision requires that the findings of the comprehensive physical security survey in conjunction with the assessment be used in formulating a terminal's security plan. The survey and assessment would identify important factors in strength and weaknesses in the terminal's security. This valuable information can greatly benefit the formulation of an effective security plan unique to each individual terminal.

- (d) The Marine Terminal Physical Security Plan is implemented, maintained and periodically updated;

This provision requires that the MTSO implements, maintains and periodically updates the terminal's security plan.

- (e) Personnel responsible for security are trained in all aspects of the Marine Terminal Physical Security Plan;

This provision requires the MTSO to be responsible for security training of personnel who are assigned security duties.

- (f) Employees, visitors and contractors requiring access to the terminal are provided with security awareness information;

This provision requires the MTSO to be responsible for providing all employees, visitors and contractors with security awareness information pertinent to the terminal. .

- (g) Vehicle access controls with designated parking areas and no-parking zones are established;

This provision requires the MTSO to be responsible for designating parking and no-parking areas at the terminal. It also requires the MTSO to be responsible for establishing vehicle access controls to and from the terminal. .

- (h) Periodic security drills and exercises are conducted;

This provision requires the MTSO to be responsible for conducting periodic security drills and exercises which will ensure that the terminal is always security conscious.

- (i) The terminal has an identification and verification process for all employees, vendors and other persons whose duties require them to have access to the terminal and a tracking process for all vehicles allowed entry to the terminal;

This provision requires the MTSO to be responsible for ensuring that the terminal's security includes an identification and verification process for all employees and visitors to the terminal. It also requires the MTSO to develop a tracking process for all vehicles allowed entry to the terminal. The provision is a measure that prevents and deters unauthorized persons and vehicle entry to the terminal.

- (j) All occurrences or suspected occurrences of terrorist acts and related activities are reported to National Response Center, telephone (800) 424-8802, and local law enforcement agencies having jurisdiction at the marine terminal. Such occurrences include bombings, bomb threats, suspicious letters or packages and incidents related to the intentional release of chemical, biological or radio active agents. Records of such occurrences shall be maintained at the marine terminal for three (3) years; and

This provision requires the MTSO to be responsible for developing and ensuring that there are policies and processes for reporting of security occurrences or suspected terrorist acts in the correct manner, i.e., to the National Response Center and local law enforcement agencies having jurisdiction. The provision also requires the MTSO to be responsible for maintaining records of security and terrorist related incidents and occurrences for a period of three years.

- (k) Procedures for notification of security incidents or threats to terminal and vessel personnel are established.

This provision requires the MTSO to be responsible for developing procedures for notification of security threats or incidents to terminal and vessel personnel. The provision ensures that information is communicated to all persons at the terminal so that they may be prepared for such incidents.

§2436. Marine Terminal Physical Security Plan.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section is to clearly specify the minimal requirements and contents of a marine terminal physical security plan. It also identifies who is responsible for developing and maintaining this plan.

NECESSITY

Marine terminals in California are diverse in their layout, their operations and their degree of complexity. Developing a physical security plan is essential in protecting the terminal and its equipment, persons at the terminal and the environment by preventing or deterring the ongoing threat of terrorist attack. This section specifies the minimum requirements for a marine terminal physical security plan. .

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

- (a) The MTSO shall develop and maintain a Marine Terminal Physical Security Plan, in writing, for countering risks and threats. The plan shall, at a minimum, document the practices, procedures, responsibilities, equipment, and structures utilized in complying with all of the provisions of Section 2433.

This provision clearly specifies that the MTSO will be responsible to develop the marine terminal physical security plan in writing, for countering risks and threats. It also requires documentation as to how the provisions of §2433 shall be accomplished.

- (b) The Marine Terminal Physical Security Plan shall, at a minimum, contain all of the following:

This provision and the following subsections (1) through (21) specify the minimum contents that the marine terminal physical security plan must contain.

- (1) A map, diagram or site plan of the layout of the terminal showing:
 - (A) Perimeter fencing;
 - (B) Main access to the terminal;
 - (C) Other accesses to the terminal;
 - (D) Exit and entry routes for vessel crew members;
 - (E) Waterfront areas and vessel berths;
 - (F) Designated vehicle parking areas;
 - (G) Emergency exit routes for personnel and vehicles from the terminal;
 - (H) Location of lighting, motion detectors, cameras and other surveillance equipment;
 - (I) Fixed security posts and mobile routes; and
 - (J) Restricted areas.
- (2) The names and contact telephone numbers of the Terminal Manager, the MTSO and alternates, and all terminal security personnel;

This provision specifically requires listing contact information for the terminal manager, the MTSO and alternates or other security personnel in the security plan. In the event of a threat or security related incident occurring at the terminal, one or more of these individuals must be contacted to advise, consult, and coordinate or to respond.

- (3) The duties of the MTSO, alternates and terminal security personnel;

This provision specifies that the duties of the MTSO, alternates and terminal security personnel must be listed in the security plan.

- (4) The minimum number of terminal security personnel on duty and their responsibilities when oil transfer operations are being conducted;

The number of security personnel on duty during transfer and non-transfer operations may vary, as with their responsibilities. It is necessary to specify in the security plan the

minimum number of persons that will be on duty during oil transfer operations at the terminal and their responsibilities.

- (5) A description of the physical security arrangements for the terminal including the minimum number of security personnel on duty, if any, when no transfer operations are being conducted;

Since all terminals do not operate on a 24-hour basis, is necessary to know what physical security arrangements are in place at the terminal and the number of security personnel on duty if any, during non-transfer operations.

- (6) A description of the procedures and arrangements for elevated security in compliance with the U.S. Coast Guard Captain of the Port's directives regarding threat escalation;

The security plan must describe what additional security measures will be taken and how it will respond to elevated threat levels as directed by USCG Captain of the Port. during heightened threat periods. There are currently three elevated threat level guidelines listed in documents from the United Nations International Maritime Organization (IMO) and the United States Coast Guard (USCG) as referenced on page 2 of this document. The "Port Facility Security" and the USCGs "Facility Security Plan" dated April 24, 2002.

- (7) Procedures for reporting security threats or breaches of security;

This provision specifies that procedures for reporting security threats or breaches of security be listed in the security plan. Security personnel should have knowledge of procedures to follow and pertinent information to report.

- (8) The telephone numbers of the National Response Center, (800) 424-8802 and other local agencies having jurisdiction at the marine oil terminal;

In order to notify federal and local agencies in the event of a terrorist threat or act and to expedite a timely response, this number is provided and must be listed in the security plan with additional numbers for local agencies as determined by the MTSO.

- (9) Findings of the initial comprehensive physical security survey and assessment;

Identification, evaluation and weaknesses found to be present as a result of and in review of the physical security survey and assessment must be listed in the plan and addressed.

- (10) Equipment, measures and procedures at the terminal that are used to prevent the introduction of unauthorized weapons, incendiaries

or explosive devices or any other unauthorized dangerous devices that may be used to cause harm or damage to people, vessels or terminals by any means onto the terminal from the shore side;

It is of the utmost importance that the introduction of unauthorized weapons, incendiaries or explosives and other dangerous devices be prevented entry onto the terminal or vessels as they have the potential of causing incalculable damage to the terminal or vessel as well as harm to the environment and loss of life. The security plan must describe what procedures and processes are in place to address this.

(11) Measures to prevent unauthorized persons gaining access onto the terminal, onto vessels moored at the terminal and to restricted areas of the terminal;

Unauthorized persons gaining access to the terminal or vessel have the potential of causing incalculable damage to the terminal or vessel as well as harm to the environment and loss of life. The security plan must describe what procedures and processes are in place to address this.

(12) Measures or procedures to permit entry of persons without valid identification;

This provision requires that the security plan include documented procedures for permitting entry of persons who do not have a valid form of identification. Occasionally, there will be people such as relatives and friends of terminal or vessel personnel who visit the terminal or the vessel via the terminal. This procedure in the security plan will enable security personnel to authorize such visitors entry.

(13) Procedures for verification of identity of terminal employees, vendors, contractors, vessel agents, truck drivers, government agents and other visitors to the terminal to ensure that they have legitimate business at the terminal;

This provision requires the security plan to include documented procedures for verification of identity of terminal personnel and all other categories of visitors to ensure that they have legitimate business at the terminal.

(14) Measures and procedures to permit entry for scheduled and unscheduled deliveries including hazardous materials to the terminal or vessel moored at the terminal in advance;

This provision requires the security plan to include documented measures or procedures that address all deliveries at the terminal or vessel moored at the terminal, including unscheduled deliveries. Situations arise when an unscheduled delivery arrives at the terminal where special consideration and scrutiny should be observed.

- (15) Procedures and measures for the terminal's security personnel's response to security threats or breaches of security;

This provision requires the security plan to list measures and procedures that security personnel will take when a response to a security threat or breach is necessary.

- (16) Duties of terminal personnel other than security personnel in the event of a security threat or breach of security;

This provision requires the security plan to list the duties of all non-security personnel at the terminal in the event of a security threat or breach of.

- (17) Procedures to be followed when unauthorized persons are discovered on the terminal;

This provision requires the security plan to describe what procedures will be followed when unauthorized persons are discovered on the terminal.

- (18) Any standing agreements with local police and fire departments regarding terminal security;

This provision requires the security plan to describe what standing agreements, if any, are in place with local police and fire departments pertaining to security at the terminal and response times.

- (19) Security procedures in the event of a loss of electrical power and other emergencies;

This provision requires the security plan to describe what procedures will take place if there is a loss of electrical power to the terminal or other emergencies. Some terminals may have automatic gates, alarms or surveillance equipment powered by electricity. In the event this power is lost, the terminal's security could be compromised.

- (20) A description of the communications system that is used for maintaining security; and

This provision requires the security plan to describe what communication systems are utilized at the terminal in maintaining security. This would include communications within the terminal as well as with vessels moored at the terminal.

- (21) A description of the procedures, equipment and operations used for compliance with the requirements of Sections 2437, 2438, 2439, 2440, 2441, 2442 and 2444.

This provision requires the security plan to describe procedures, equipment and operations used for compliance with the requirements of Sections 2437, 2438, 2439, 2440, 2441, 2442 and 2444. §2437 contains provisions for identification of personnel

terminal employees, contractors and visitors to the terminal. §2438 has provisions for access control to the terminal. §2439 has provisions for key control systems and locking devices. §2440 addresses perimeter fences and barriers. §2441 specifies the minimum intensity of lighting. §2442 specifies requirements for warning systems, signals and communications. §2444 has requirements for security training for terminal personnel and security awareness training for visitors to the terminal. Since there are various technologies, equipment and operational methods available or in place at terminals, these elements should be included in the plan.

- (c) The MTSO must restrict the distribution, disclosure, and availability of information contained in the Marine Terminal Physical Security Plan to those who have been determined by the terminal operator to have a need-to-know. The information required by subsections (b)(9) of this Section may be maintained at a separate location.

This provision restricts the distribution, disclosure, and availability of information contained in security plan to those individuals with a need to know. Any information relating to security must be considered confidential and proprietary to the terminal. Therefore, it is essential that such information not be disclosed to anyone who does not have a need-to-know. This provision also allows the MTSO to separate the documents describing the findings of the physical security survey and assessment from other documents in the security plan. These findings identify the terminal's assets and its vulnerability. As such, they are particularly sensitive in nature and may need isolation from the security plan. Unauthorized viewing of security related documents would reduce the effectiveness of a security plan and consequently increase the risk of exposure to vulnerable areas of the terminal and vessel and to persons at the terminal.

- (d) The Marine Terminal Physical Security Plan shall be reviewed and updated at least annually and whenever a security incident or circumstances warrants changes.

It is well known that no two terrorist acts are similar in nature. The main ingredient of terrorist activity is to produce devastation with an element of surprise and unpredictability. For this reason, an initial security plan alone is inadequate. It must be updated from time to time for it to be an effective means of continually deterring terrorist activity. This provision requires that the security plan be reviewed and updated annually or when an incident or circumstance warrants a change. Security at each terminal is ongoing and therefore subject to changes depending on various factors. Observations, incidents or situations can cause reason for change in the plan.

§2437. Requirements for Identification of Terminal Employees, Contractors and Visitors to the terminal.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section is to clearly specify the minimal requirements for identification of all terminal employees, contractors working at the terminal, visitors to the terminal and those who traverse the terminal property such as ship's crewmembers. Additionally, it also clarifies the types of identification that will be considered as valid identification. This section also prescribes procedures and processes for verification of persons entering or leaving a terminal.

NECESSITY

In order to ensure that no harmful activity takes place within the confines of a terminal, it is necessary to exercise control over the persons who enter and leave the terminal. This is best done by verifying the identification documentation presented by persons entering the terminal. It is also necessary and important to check the authenticity of identity documentation. As a result of September 11, 2002 many organizations and companies should now be closely scrutinizing the identification of all persons entering or leaving the terminal premises. Terminal security personnel should also verify the validity of the identification presented by all persons seeking entry to the terminal. Individuals should also be carefully matched to the identification that they present. Additionally, there may be situations when visitors arrive at the terminal without proper identification or no identification at all, as in the case of younger family members accompanying employees at the terminal. Therefore it is necessary to present valid and acceptable identification and to have procedures that determine the individual has legitimate business at the terminal and procedures that address visitors without identification.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

- (a) All persons entering or leaving a terminal must possess and show a valid identification card or document as prescribed in subsection (b) of this Section to gain access to the terminal. All passengers in vehicles must have valid identification. Identification must be presented to security personnel or government agents upon request. In the event that an individual seeking access to the terminal does not have an identification card that meets the requirements of subsection (b) of this section, an alternative means of identification as prescribed in subsection (b)(13) of Section 2436, must be used.

This provision requires that persons entering or leaving a terminal, including passengers in vehicles, must possess and show a valid identification to security personnel in order to gain access to the terminal. Further, they may be requested to present identification to government agents. Additionally, procedures should be developed to address

individuals seeking access that do not have identification. Such persons may be friends or relatives of terminal personnel or ship's crewmembers.

- (b) Valid identification cards or documents must be tamper resistant and at a minimum include the holders name and a recent photograph of the holder. Any of the following may constitute a valid form of identification:

This provision and the following subsections (1) through (6) specify the minimum contents that should be shown on the identification form as well as a recent photograph of the holder. In addition, this provision specifies the types of identification deemed to be acceptable and appropriate.

- (1) Employer issued employee identification cards;
- (2) Identification card issued by a government agency;
- (3) State issued drivers license;
- (4) Pacific Maritime Association card;
- (5) Labor Organization identity card; or
- (6) Passport.

- (c) Security personnel or competent authority shall verify that identification documents and applicable licenses or credentials match the person presenting them. Persons arriving by motorcycle shall be required to remove helmets to assist in identification.

This provision requires that security personnel or competent authority shall verify identification; licenses and other credentials match the person presenting them. In the event the mode of transportation is a motorcycle, the individual(s) should remove their helmet(s) to enable comparison with an identification document.

- (d) Security personnel shall randomly verify the identity and identification of persons encountered during roving patrols.

This provision requires that security personnel randomly verify the identity and identification of persons encountered during roving patrols. There may be a variety of persons that work at a terminal at any given time. These would include permanent employees, contractors or vendors and also visitors to the terminal and vessel crewmembers that traverse the terminal. To ensure that no harmful activity is taking place at the terminal, it is necessary that security personnel conduct random roving patrols. During these patrols security personnel should verify identities of persons encountered to determine that they have legitimate business on the terminal premises.

(e) The MTSO shall develop a verification process as prescribed in subsection (b)(14) of Section 2436, to ensure that all persons requiring access to the terminal have valid business on the terminal. Vendors, contractors, truck drivers and visitors arrivals shall be scheduled in advance. If their arrival is not prearranged, entry shall be prohibited until their need to enter is verified.

This provision requires the MTSO to develop a verification process to ensure that all persons requiring access to the terminal including vendors, contractors, truck drivers and visitors have valid business at the terminal. Additionally, measures and procedures should be developed to ensure that all arrivals are scheduled in advance. If arrivals are not scheduled in advance, their access the terminal should be prohibited until their need to enter is verified.

(f) The MTSO shall require contractors and vendors who require access to the terminal or vessels at the terminal, to provide the terminal with a current pre-authorized list of persons requiring access. This requirement does not preclude such persons from having valid identification.

This provision specifies that the MTSO should require that contracting companies as well as vending companies provide the terminal with a current pre-authorized list of representative persons from those companies requiring access to the terminal. Such pre-authorized lists of persons will enable ready recognition of contractor's or vendor's employees.

(g) Vessel's crewmembers, agents, contractors and vendors on board vessels moored at terminal, shall not be permitted to exit or enter the terminal unless their names are provided and verified in advance.

This provision requires that vessel crewmembers that wish to enter or exit a terminal on shore leave, crew changes or for medical reasons should have their names provided and verified in advance to terminal security personnel. This would enhance access control measures at the terminal and expedite the process.

(h) The terminal shall have a process to account for all persons within the terminal at any given time.

This provision requires that a process be developed to account for all persons within the terminal at any given time. Due to the diverse number of persons at a terminal at any given time, it would be beneficial to the MTSO and security personnel to be able to account for these individuals and their locations in the event of terrorist threats or acts as well as for emergency situations.

(i) All persons requiring access to the terminal shall be subject to search before being permitted to proceed beyond a terminal's access points. Signs shall be posted at access points being utilized to advise persons of this requirement.

This provision specifies that persons who require access to the terminal are subject to search prior to entry and that signs will be posted to advise them of this possibility. Having this provision in the regulations is beneficial to terminal security personnel. It prevents or deters the carrying of any unauthorized weapon, incendiary, or explosive on or about any person inside the terminal, including within his or her personal articles

§2438. Requirements for Access Control.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section is to specify the minimal requirements for access control at the terminal.

NECESSITY

Access control is a crucial part of maintaining a secure terminal. . If a terminal is adequately fenced to prevent unauthorized access then it would need effective measures to control entry of persons and vehicles at designated entry gates to ensure security at the terminal. Establishment of restricted areas at the terminal would control the movements of visitors, vendors, contractors and ship's crewmembers. Roving patrols and random verification of persons at the terminal would ensure that there are no unauthorized persons at the terminal.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

(a) Gates.

All entry gates shall be locked and secured or guarded at all times or shall have an effective entry detection alert system.

This provision specifies that all entry gates should be locked, guarded, or have an entry detection alert system. These are all necessary safeguards to prevent and deter unauthorized entry access.

(b) Restricted Areas.

The terminal shall establish and post restricted areas within the terminal to control unauthorized access to critical operating areas such as storage tanks, hazardous materials storage areas, communications and control centers.

This provision requires the terminal to establish and post restricted areas within the terminal to prevent unauthorized access in those areas considered to be restricted by the terminal operator.

(c) Vehicle Control.

Vehicle access controls shall, at a minimum, include the following:

This subsection and the following subsections (1) through (4) specify the requirements for vehicle access control. In order to control vehicle access and unauthorized parking at terminals, procedures should be developed to address this.

- (1) Parking within the terminal shall be restricted to only those designated spaces indicated in the Marine Terminal Physical Security Plan.
- (2) Vehicle entry and exit routes on the terminal shall be clearly marked.
- (3) All vehicles entering or leaving the terminals shall be subject to search by terminal security personnel. Signs shall be posted to advise persons of this requirement.
- (4) Terminals shall have procedures for controlling vehicle access and parking.

(d) Deliveries.

This subsection and the following subsections (1) and (2) require that all packages entering or leaving the terminal may be searched by terminal security personnel. Signs should be posted at access points of the terminal to advise of this possibility. Delivery orders should be verified and bills of lading or shipping documents should be checked for accuracy and piece count.

- (1) All packages entering or leaving the terminals are subject to search by terminal security personnel. Delivery orders shall be verified prior to being allowed access to restricted areas. Signs shall be posted at each access point being utilized by the terminal to advise persons of this requirement.
- (2) Bills of lading and shipping documents for cargo and stores deliveries shall be checked for accuracy and cargo and stores should be adequately described on documentation, including piece count if applicable.

(e) Security Patrols.

- (1) Designated personnel shall conduct roving safety and security patrols when the terminal is manned at random intervals not exceeding four (4) hours.

This provision requires that designated personnel conduct roving safety and security patrols at all times that the terminal is manned. Additionally, it requires that the patrols be conducted at random intervals. Random patrols diminish predictability. The requirement also specifies the maximum interval between consecutive patrols and sets it at a maximum of four hours.

- (2) Security patrols shall, at a minimum, cover restricted areas, main power supply switch gear, lighting controls, perimeter access points, vehicle parking areas, communications and operations control centers and waterside access areas.

This provision specifies the minimum areas or points of a terminal that a security patrol should cover. These patrols should include all areas considered by the terminal to be at vulnerable or at risk and subject to unauthorized access.

- (3) Designated personnel must be able to respond immediately to a security signal in accordance with established procedures in the security plan.

This provision requires that designated personnel be able to respond immediately to a security signal. The response to a security signal must be as described in the security plan

- (4) Records of unusual occurrences encountered during security patrols shall be maintained in a log. Such records shall be maintained for a period of three years. Records must be available for inspection by the Division.

This provision requires that any unusual occurrences encountered during security patrols be recorded in a log. It further requires that the records be maintained for at least three years and be available for inspection by the staff of the Division.

(f) Tank Vessels, Barges and other Vessels Moored at the Terminal.

This subsection and the following subsections (1) and (2) specify that vessel's crewmembers should depart and arrive from or to the vessel by means so described in the physical security plan for entry and exit routes. These routes should be posted to avoid unauthorized entry into restricted areas.

- (1) Vessel's crewmembers shall depart or arrive as prescribed in subsection (b)(1)(D) of Section 2436.
- (2) Arrival and departure routes for vessel's crewmembers must be posted or visually indicated to avoid their access to restricted areas within the terminal.

§2439. Key Control Systems and Locking Devices.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section is to ensure that adequate measures are in place to secure various areas of the terminal with the use of locking devices and chains. Additionally, key control procedures are necessary and should be implemented.

NECESSITY

To adequately protect the terminal from intrusion by any source, it is necessary to provide strong and secure locking devices and chains at key locations within the terminal. These measures would enhance gate security and can be utilized in other applications within the terminal as well. This can be highly effective in preventing or deterring unauthorized entry onto the terminal.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

- (1) Locks, locking devices, and key control systems shall be inspected by the MTSO regularly and malfunctioning equipment repaired or replaced.
- (2) Chains used in conjunction with locks shall be permanently attached to fence posts or gates. Locks shall be of case hardened construction.
- (3) Access to keys including duplicate keys shall be restricted to those terminal personnel as determined by the MTSO.

Subsections (a), (b) and (c) require the MTSO to inspect all security locks, locking devices and key control systems and repair or replace as needed. If chains are used in conjunction with locks they should be permanently attached so as to be available and not used for another purpose. The type lock should be of case hardened steel construction and access to keys should be limited to those personnel as determined by the MTSO.

§2440. Perimeter Fencing or Barriers.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section is to ensure that the terminal has adequate fencing or barriers in place to prevent or deter unauthorized entry onto the terminal by any means.

NECESSITY

The most effective means of preventing free and unauthorized access to any area is by erecting a secure fence or other type of barrier to surround that area. This section requires the use of fences and barriers in preventing or deterring the introduction of persons, vehicles or dangerous items that could cause damage to the terminal or harm to people and the environment.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

- (a) Perimeter fences and other barriers shall be located and constructed so as to prevent the introduction of persons, dangerous substances or devices, and shall be of sufficient height and durability to deter unauthorized passage.

Subsection (a) specifies that fences and barriers must be of sufficient height and durability to prevent the introduction of persons, dangerous substances and devices into the terminal.

- (b) Fencing shall have barbed or razor wire tops and be constructed of 9 gauge or heavier wire and shall be no less than 8 feet or sufficient height and durability to deter unauthorized passage. The bottom of the fence shall be within 2 inches of the ground.

This provision specifies the height and construction of the fence. It also specifies that the bottom of the fence be within 2 inches of the ground.

- (c) Areas adjacent to fences and barriers shall be cleared of vegetation and debris that could be used to breach them.

This provision requires that areas adjacent to fences and barriers be cleared of vegetation and debris so that these items may not be used as a springboard for gaining unauthorized entry to the terminal.

§2441. Lighting.

SPECIFIC PURPOSE OF THE REGULATION

The specific purpose of this section is to ensure that the terminal has adequate lighting which illuminates access points, waterfront and dock areas as well as other areas of the terminal considered to be at risk. Adequate lighting in these areas of the terminal would enhance visibility and security at the terminal. Further, this section is to ensure that lighting control and switches are to be protected to avoid tampering.

NECESSITY

In protecting a terminal's assets it is important that those assets be adequately illuminated. The effect of illumination deters the commission of harmful or unlawful acts. Well illuminated areas such as restricted areas, access points, waterfront and dock areas and other areas considered by the terminal to be at risk, would provide a distinct deterrence to potential harmful and unlawful activity. This would increase visibility thereby preventing or deterring unauthorized access onto the terminal. Power supply lighting control and switch gear locations are an integral part of the lighting and security systems utilized at the terminal and therefore need to be protected to avoid tampering and possibly compromise the security of the terminal.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

- (a) Security lighting shall provide a minimum illumination standard of one foot candle at one meter above the ground. Security lighting shall, at a minimum, illuminate access points to the terminal, the waterfront and dock areas.
- (b) Lighting control and switches shall be protected to prevent unauthorized access or tampering.

In addition to the lighting requirements set forth in CCR §2365 which addresses the lighting requirements during transfer operations, subsections (a) and (b) above specify the minimum lighting requirements to be utilized or provided in security applications or locations at the terminal.

§2442. Warning Systems, Signals and Communications.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section is to ensure that the terminal has a warning system or signal to notify persons at the terminal that a breach of security or a security related incident has occurred.

NECESSITY

In the event of a breach in security or a security related incident, persons at the terminal should be notified in a timely manner so that they may respond as they are directed in accordance with Section 2436 (b) (16) of the physical security plan. A communication system to allow the vessel moored at the terminal to contact security should be provided so that vessel crewmembers can contact security directly in the event that an act or threat is made against the vessel and without the knowledge of the terminal. This communication system would also assist the vessel in coordinating with the terminal during these situations.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

(a) Warning Systems or Signals.

The terminal shall have a signal or system for warning terminal personnel of a security breach or incident.

(b) Communications.

In addition to the requirements of 2 CCR §2370, the terminal shall provide a means of communication for vessel's crews to contact terminal personnel.

Subsections (a) specifies that the terminal should have a warning signal or system to notify non-security personnel at the terminal that an incident or breach in security has occurred. Subsection (b) requires the provision of a means of communication to the vessel so that they may contact terminal personnel directly if needed.

§2443. Video and Electronic Surveillance.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section is to encourage the terminal operator to utilize video and electronic surveillance systems to augment or replace, whichever is appropriate, manual checkpoints, patrols, breaches of fencing and unmanned waterfront areas.

NECESSITY

Generally, manual security is affected by factors such as fatigue and boredom. This in turn induces complacency and distraction. All these factors tend to reduce vigilance and alertness and thus reduce the efficiency of a manual security system. In order to enhance security at terminals, it may be beneficial to augment existing security measures currently in place by installing new video or electronic systems, or to upgrade existing one's. Due to the geographic location, complexity and necessities of each terminal, this should be determined by the MTSO of that terminal. These systems can assist in surveillance and detection by monitoring locations or patrols surrounding the perimeter and within the terminal. An added advantage of a video system is that historical evidence can be recorded.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

The MTSO shall determine whether or where video or other electronic surveillance and detection systems can be used to augment or replace, as appropriate, the following:

This provision requires the MTSO to consider and determine whether new or additional video surveillance or detection systems at the terminal would augment or replace existing surveillance systems.

- (a) Detection and warning of breaches of security at perimeter fences and barriers;
- (b) Roving security patrols;
- (c) Control of entry points to the terminal; and
- (d) Surveillance of waterfront areas.

Subsections (a) through (d) above specify certain areas of the terminal where video and electronic surveillance systems may be used to augment or replace, whichever is appropriate, existing surveillance systems.

§2444. Terminal Security Training and Security Awareness.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this section is to specify the training requirements for terminal security personnel, terminal non-security personnel, vendors, contractors and all other persons who visit the terminal.

NECESSITY

It is important that all persons at a terminal know their duties and actions in the event of a security incident at the terminal. If this were not the case, then a security incident would result in chaos at the terminal which would only increase the possibility of casualties and losses. Adequate and appropriate security training is therefore necessary and vital in reducing harm and damage. To achieve this, training programs should be established by the MTSO to address the training and awareness of all personnel at the terminal including contractors, vendors and visitors. This training would ensure that security personnel are knowledgeable, proficient and effective in their responsibilities and that all other personnel are provided security awareness training deemed appropriate by the MTSO.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

- (a) The MTSO shall develop a security training program for terminal security personnel and a security awareness program for all terminal employees.

This provision requires the MTSO to develop a security training program for persons employed or contracted to perform security duties at the terminal and a security awareness program for all other terminal personnel.

- (b) The training program shall include initial and periodic refresher training.

This provision specifies that the training program should include initial and periodic refresher training. Refresher training would reiterate all aspects of the program and include updated information resulting from any changes that were made in the program or from lessons learned from any security related incidents.

- (c) Terminal security personnel shall complete security training programs established by the MTSO.

This provision requires that all security personnel employed or contracted to perform security duties at the terminal undergo and satisfactorily complete specific security training programs that are established by the MTSO.

- (d) All terminal employees, contractors, vendors and visitors to the terminal shall undergo security training or security awareness training as deemed appropriate by the MTSO. The MTSO shall determine each individual's training requirements from those prescribed in subsection (e) of this Section.

This provision requires that all terminal employees, vendors and visitors to the terminal to undergo security training or security awareness training as deemed appropriate by the MTSO and in accordance with subsection (e) of this section. The requirement allows the MTSO to determine the training necessary for each individual or category of persons who will be at the terminal.

- (e) The security training program shall, at a minimum, include all of the provisions of Section 2433, Section 2436 and the following elements:

This provision specifies that the training program should include all of the provisions outlined in sections 2433, 2436 and subsections (1) through (13) of this section.

- (1) The terminal's policies, practices and procedures for implementing the security program;

This provision requires the security training program to state the terminal's policies practices and procedures for implementing the security program.

- (2) Coordination with local law enforcement agencies;

This provision requires the security training program to address coordination with local law enforcement agencies.

- (3) Coordination with federal, state and other local agencies having jurisdiction;

This provision requires the security training program to address coordination with federal, state and other local agencies having jurisdiction.

- (4) Procedures and duties for security personnel when a security signal is received;

This provision requires the security training program to address procedures and duties for security personnel when a security signal is sounded or received.

- (5) Procedures and duties of terminal employees when a security signal is received;

This provision requires the security training program to address the procedures and duties of terminal employees when a security signal is received.

- (6) Procedures for notifying all terminal personnel and vessel's crew when increased security threat levels are imposed by the U.S. Coast Guard Captain of the Port;

This provision requires the security training program to address procedures for notifying all terminal personnel and vessel's crew when the U.S. Coast Guard Captain of the Port imposes increased security threat levels.

- (7) Procedures and arrangements for elevating security in compliance with the U.S. Coast Guard Captain of the Port's directives.

This provision requires the security training program to address procedures and arrangements for elevating security in compliance with the U.S. Coast Guard Captain of the Port's directives.

- (8) Procedures, actions and reporting of incidents involving breaches of security;

This provision requires the security training program to address procedures, actions and reporting of incidents involving breaches of security.

- (9) Procedures for notifying the National Response Center and local agencies having jurisdiction;

This provision requires the security training program to address procedures for notifying the National Response Center and local agencies having jurisdiction.

- (10) Communications, warning systems and signals operations;

This provision requires the security training program to address communications, warning systems and signals operations.

- (11) Terminal security drills and exercises which must include periodic drills for implementing elevated security levels;

This provision requires the security training program to address periodic security drills and exercises to be conducted at the terminal for implementing elevated security levels.

- (12) Awareness training for terminal employees to ensure that they have working knowledge of the terminal's security and emergency plans and procedures; and

This provision requires the security training program to address awareness training for terminal employees to ensure that they have working knowledge of the terminal's security and emergency plans and procedures.

(13) Awareness training for contractors, vendors and visitors to the terminal.

This provision requires the security training program to address awareness training for contractors, vendors and visitors to the terminal. Though these personnel may be on the terminal premises on an interim basis, awareness training is necessary for their information and safety as well as to coordinate with terminal policies and procedures in the event of a terrorist related threat or incident.

(f) Security training must emphasize vigilance and security awareness of all terminal employees.

This provision requires the security training program to address the vigilance and security awareness training of all terminal employees. Personnel at the terminal should be aware and on alert at all times as to their surroundings and of any unusual observations or personnel encountered at the terminal. This in itself can be an effective deterrent against terrorism.

(g) The training program shall be reviewed at least annually. The program should be updated to include lessons learned from any breach of security occurrences.

This provision requires the security training program to be reviewed at least once annually to ascertain if the training is adequate and appropriate for the needs of the terminal. However, due to other situations that may occur such as a terrorist act or incident or elevated security directives issued by the U.S. Coast Guard Captain of the Port, the training program may require other aspects of training not previously considered. In this case the training program would possibly need to be updated to include lessons learned.

(h) Security drills and exercises may be either specific to the marine terminal or as part of a cooperative program with vessel, port or local agencies' security plans. Drills and exercises must be conducted at intervals not exceeding twelve (12) months.

This provision specifies that security drills and exercises must be conducted at intervals not exceeding twelve months. It also specifies that such drills may be conducted in cooperation with vessel, port or local agencies or may be conducted specific to the terminal. Drills and exercises are necessary to assist the terminal in developing a state of readiness and effective response to address various situations that may involve the terminal, vessel or other local agencies.

§2445. Marine Terminal Physical Security Plan: Approval Procedure.

SPECIFIC PURPOSE OF THE REGULATION

This section is provided to specify the Division requirements for security plan approval. It also details the procedures and sequence that must take place in this process. In addition, the terminal operator rights of confidentiality pertaining to documentation received by the State Lands Commission are explained.

NECESSITY

To ensure that all marine terminal operators are aware of the security plan approval process and of Division requirements and procedures in this process, the following sections provide the necessary sequence that the terminal operator must follow for security plan approval. These sections also direct the division to review the security plan and conduct an on-site inspection. Further, these sections are also necessary to clarify that all information and documentation received from the terminal operator by the State Lands Commission or its Staff relating to security at any marine terminal or related facility shall remain confidential and shall be considered proprietary information of the marine terminal's operator.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS.

The Commission Staff has determined that there are no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons.

- (a) The terminal operator must ensure completion of a Marine Terminal Physical Security Plan and notify the Division Chief of its completion in writing, within 90 days of the effective date of these regulations.

This provision requires the terminal operator to ensure completion of the security plan and to notify the Division within 90 days of the effective date of these regulations.

- (b) After the initial 90-day compliance period, the Division staff shall conduct an on-site inspection of the terminal's security arrangements to determine if the Marine Terminal Physical Security Plan meets the requirements of these regulations.

This provision specifies that the Division staff shall conduct an on-site inspection of the terminal's security arrangements to determine if the security plan meets the objectives and requirements of these regulations.

- (c) If the Marine Terminal Physical Security Plan meets the requirements of these regulations, the Division Chief shall approve the plan, in writing, within 30 days of the on-site inspection.

This provision specifies that the Division shall approve a security plan in writing within 30 days of the on-site inspection at the terminal. A review of the security plan shall take place initially to determine that it meets the requirements of these regulations. An on-site inspection by the division will follow to ascertain that security plan contents have been implemented at the terminal and are adequate and consistent with information contained in the plan.

- (d) If the Marine Terminal Physical Security Plan does not meet the requirements of these regulations, the Division Chief shall notify the terminal operator, in writing, of any deficiencies within 30 days of the on-site inspection. Terminal operators shall correct any deficiencies within 30 days or a period agreed upon by the terminal operator and the Division Chief. When corrections have been made, the terminal operator shall notify the Division.

This provision specifies that the Division shall notify the terminal operator in writing within 30 days of the on-site inspection of any deficiencies in the security plan. If the security plan does not meet the requirements of these regulations due to deficiencies in the security plan or physical deficiencies at the terminal in reference to the plan, the terminal operator shall correct these deficiencies within 30 days and notify the Division so that it may re-inspect the security plan or terminal to determine that all corrections performed are adequate and consistent with the intent of these regulations. Due to the nature or type of deficiencies encountered, it may require more than a 30-day period to correct these deficiencies, in which case the Division and terminal operator shall mutually agree on an acceptable time frame for completion of these deficiencies.

- (e) Upon receipt of such notification, the Division Chief shall, within 30 days, inspect and approve or disapprove the Marine Terminal Physical Security Plan as appropriate.

This provision specifies that the Division shall re-inspect the security plan or terminal in reference to the plan once it has been notified that the deficiencies have been corrected. The Division shall determine that the completed corrections are adequate and consistent with the intent of these regulations and the security plan.

- (f) Terminal operators shall notify the Division Chief, of any proposed amendments to an approved Marine Terminal Physical Security Plan. Any such proposed amendments shall be communicated to the Division Chief for approval at least 30 days prior to the date that changes are to be adopted. The Division Chief shall approve or disapprove proposed amendments, in writing, within 30 days of receipt as set forth in subsections (c) and (d) of this section.

This provision requires the terminal operator to notify the Division Chief of any proposed amendments to an approved security plan at least 30 days prior to the adoption of such changes. Due to ongoing security concerns, circumstances and new technologies

being developed as a result of September 11, 2001, it may be necessary to add or change an existing provision within the security plan. To accomplish this, an amendment to the security plan would be required and communicated to the Division Chief. The amendment would then be approved or disapproved in writing to the terminal operator within 30 days of receipt as set forth in subsections (c) and (d) of this section.

- (g) (1) Any information or documents relating to security at any marine terminal, where the information or document is identified by the terminal operator as confidential or as containing proprietary information, shall be treated as confidential information by the State Lands Commission and its Staff.

This provision pertains to the confidentiality and propriety of security related documentation. Commission staff will, from time to time, review a terminals security plan and other related documents. This provision requires the Commission and its staff to treat any information identified as confidential or proprietary information as confidential information.

- (2) For purposes of subsection (g)(1), a document shall be considered identified as confidential or as containing proprietary information only if the document is designated as confidential or as containing proprietary information in writing either on the document so identified or in an accompanying document signed by the terminal operator.

This provision specifies that any documentation considered by the terminal operator to be confidential or proprietary information must be designated in writing as being confidential or proprietary either on the document itself or in an accompanying document signed by the terminal operator.